VZCZCXRO2746
OO RUEHCD RUEHGA RUEHGD RUEHHA RUEHHO RUEHMC RUEHMT RUEHQU RUEHTM
RUEHVC
DE RUEHBU #1458/01 2972045
ZNR UUUUU ZZH
O 232045Z OCT 08
FM AMEMBASSY BUENOS AIRES
TO RUEHC/SECSTATE WASHDC IMMEDIATE 2309
INFO RUEATRS/DEPT OF TREASURY WASHINGTON DC IMMEDIATE
RUCPDOC/USDOC WASHINGTON DC IMMEDIATE
RHMFIUU/HQ USSOUTHCOM MIAMI FL IMMEDIATE
RUCNMRC/WESTERN HEMISPHERIC AFFAIRS DIPL POSTS IMMEDIATE
RUEAIIA/CIA WASHINGTON DC IMMEDIATE
RHEHNSC/NSC WASHINGTON DC IMMEDIATE
RUEKJCS/SECDEF WASHINGTON DC IMMEDIATE

UNCLAS SECTION 01 OF 03 BUENOS AIRES 001458

SENSITIVE
SIPDIS

Treasury for Luyen Tran, Gary Sampliner

Ref: BUENOS AIRES 1442

E.O. 12958: N/A
TAGS: EFIN ECON PREL PGOV AR
SUBJECT: U.S. Company MetLife Discusses Options in the Face of Argentina's Plan to Nationalize Private Pension Funds

Summary

¶1. (SBU) Met Life, the only U.S.-operated private pension fund operating in Argentina, does not see any way to block the Argentine government's plan to nationalize all private pension assets (reftels). The only possible obstacles are major social unrest or Congressional rejection of the GoA's proposed law. MetLife executives do not expect either scenario to occur. They say they have yet to speak to GoA officials since the October 21 announcement, so are still uncertain about the details of the initiative. While they welcome USG efforts to urge the GoA to reconsider the action on the basis that it will undermine already illiquid local capital markets and the broader economy, they ask that the U.S. hold off raising Met-specific concerns until they have better information. MetLife execs assert that both the private pension funds and contributors will consider lawsuits to challenge the constitutionality of the law, once Congress passes it. However, they consider it too early to consider whether the GoA's action can be considered an expropriation and eligible for ICSID arbitration under the BIT. MetLife's preference is to get reasonable compensation from the GoA and exit the sector. End Summary.

Background on MetLife operations in Argentina

¶2. (SBU) EconOff met October 22 with Metropolitan Life Insurance Company (MetLife) executives Oscar Schmidt, Senior VP and Latin America Region Head, and Luis Lategana, Argentina and Uruguay Country Manager, to get their views on the GoA's October 21 announcement to nationalize all private pension funds (AFJPs) operating in Argentina (see reftels for background on the announcement). MetLife is the only U.S.-majority-owned AFJP in Argentina, although New York Life Insurance Company owns a stake in the AFJP "Maxima," majority owned and managed by HSBC. (Comment: Schmidt requested that USG officials highlight in any conversations with GoA officials that both Met and New York Life have interests in Argentina, to avoid giving the impression that just Met is complaining to the USG.)

¶3. (U) MetLife is among the top three largest AFJPs. As of April 2008, MetLife ranked third out of Argentina's eleven AFJPs in terms of the number of contributors, with roughly 600,000 individuals (or 15% of the system). Met ranks second in terms of inflows received (approximately $50 million/month - or 17% of total inflows to the private funds in April) and third in terms of total assets ($113

million or almost 17% of the total assets in the system as of February 2008). It ranks second in terms of net worth ($83 million - 17% of the system's net worth). (MetLife is also the 14th largest insurance company operating in Argentina, as of December 2007.)

-- --
Too Late to Stop It, but Still Time to Amend It
-- -

¶4. (SBU) Schmidt speculated that it is too late for the GoA to pull this initiative back, and offered only two scenarios that can possibly halt or change its course: a significant social outcry and/or major opposition in Congress. He does not expect either, but comments that after the difficulties the GoA had with Congress and the Argentine public during the agricultural crisis, anything is possible.

¶5. (SBU) Schmidt pointed out that the public largely distrusts the private pension system, which he called poorly conceived and expensive (in terms of administrative fees assessed compared to other privatized systems in Chile), and which does not address systemic pension problems. (Comment: this opinion is widely held in Argentina, even among the most strident opponents of the GoA's nationalization plan.) As for social outcry, there are reports of efforts to organize popular protests (including the emblematic Argentine "cacerolazo" or pot-banging protest, scheduled for Friday evening, October 24). However, Schmidt felt that many contributors are resigned to losing the money. (Comment: a common response from AFJP participants is that they always saw their contributions as a tax, and never trusted that they would get the money back.)

¶6. (SBU) Given public attitudes and the GoA's majority in Congress,

Schmidt expects Congress to pass the GoA's proposed law easily. However, he did hold out some hope that the opposition may insist on modifications of the draft law, including better control of funds and limits on lending to GoA by the Social Security Agency (ANSES).

¶7. (SBU) Schmidt argued that it is not a coincidence that the GoA has presented this idea while Cabinet Chief Sergio Massa and ANSES head Amado Boudou are in key positions and close to the President, as they are two of the most knowledgeable people in the country about the various Argentine pension systems. Therefore, Schmidt emphasizes that this is not an issue of lack of understanding of the system on the part of the GoA, as has been the case with previous, poorly thought out GoA proposals this year (e.g., increasing export taxes in March and announcing Paris Club payment in September.) On the contrary, he asserted that Massa and Boudou know exactly what they are doing, and have pursued a brilliant communications strategy, using as justification for their move the opposition's harsh criticism in the past of the private pension system. The way they have sold it, Schmidt argues, will make it difficult for the opposition to oppose the draft law during upcoming Congressional debates.

Met asks USG to limit intervention

¶8. (SBU) Schmidt asked that the USG not advocate directly on MetLife's behalf at this time, but acknowledged that Met's government relations office had passed broad talking points to the Treasury Department, to be used with Argentina's Ambassador to the U.S. Hector Timmerman or other GoA officials. The gist of these points is to highlight to the GoA that this initiative is potentially devastating for the country's economy. They warn that AFJPs are the main source of investment for Argentine equities, corporate debt, and government bonds, so removing them will have seriously adverse consequences on domestic capital markets. They also warn that the GoA will further lose credibility with international capital markets and foreign investors, and that the GoA should expect litigation, since this action may be seen as an expropriation of private assets.

¶9. (SBU) Schmidt acknowledged that the points may not have much

impact with the USG's first-tier interlocutors: Ambassador Timerman, since he is likely a strong supporter of the initiative, or Cabinet Chief Sergio Massa, since he was one of its main authors. He said that the AFJPs have had an open and fluid relationship with Sergio Massa until recently, but no senior GoA officials have been in contact with any of the AFJPs since last weekend. They hope for a meeting soon with the GoA to discuss details of the GoA initiative and possible options for compensation.

AFJPs divided on how/whether to fight back

¶10. (SBU) The AFJPs have been holding constant meetings since the day of the announcement, but there is much uncertainty and they have not reached an industry-wide agreement on how or if to fight back. Post understands from other contacts in the sector that there is a divisive debate among high-ranking AFJP executives, with some arguing for a confrontational approach: to "expose GoA lies," explain the benefits of the private system, highlight the major weaknesses of the public "pay-as-you-go" system, and also forcefully argue that the GoA action is tantamount to expropriation. However, the majority of AFJP executives are apparently resigned to the end of the "AFJP era," are tired of constant GoA interference in the sector and pressure to buy GoA debt instruments, and believe they would never see the other end of a court case. These executives are reportedly interested in completing the nationalization quickly and keeping a low profile to avoid GoA retaliation.

¶11. (SBU) Schmidt noted an additional aspect that many in the sector are considering. They are facing a Catch 22: if Congress approves the nationalization law, the AFJPs' value goes to zero. However, if Congress rejects the nationalization law, many in the industry believe the possible consequences are higher risk of default in 2009, a sharp devaluation, and higher chances that the GoA loses the 2009 elections, and, weakened, is unable to govern the country during a time of difficult global economic dynamics. Schmidt commented that the second scenario is equally bad for AFJPs, so sees

this as a no-win situation for Met and the other AFJPs.

¶12. (SBU) For now, Met's Schmidt sees two fronts of action. First, after Congress approves the law, many contributors will sue the GoA, challenging the constitutionality of the nationalization, and likely all AFJPs will also begin lawsuits as part of their fiduciary responsibility (and to avoid being the target of lawsuits from their own contributors). Second, the four foreign-owned AFJPs (Spanish BBVA/Banco Frances's "Consolidar," British HSBC's "Maxima," Dutch ING's "Origenes," and Met -- all four countries have active BITs) may have to consider whether the GoA's action qualifies as an expropriation, and eligible for arbitration under their home countries' Bilateral Investment Treaties.

¶13. (SBU) Schmidt personally considers this an expropriation of Met's business in Argentina. However, he has not yet discussed with MetLife's lawyers opportunities for pursuing ICSID arbitration under the BIT, and speculated that they are months away from the point of having to consider either lawsuits or ICSID cases. He stated frankly that Met would much prefer to reach a deal with the GoA for reasonable compensation, so that Met can pay severances and close the office. (The draft bill, which is only a few pages long, includes a vague reference to compensation.)

Comment

¶14. (SBU) While MetLife representatives have asked the USG to stand down as far as raising Met-specific concerns with GoA interlocutors, they are not averse to Embassy or Washington agencies highlighting to key GoA officials that there are U.S. company interests at play, and reminding them of U.S.-Argentine BIT protections. At this time, and until Met and or New York Life get a better handle on how the nationalization plays out, Post does not plan to seek out GoA officials to raise our concerns. However, we will take advantage of

normal contacts with the GoA to inquire about the details of this proposal and highlight the U.S. interests involved.

WAYNE